

So Ordered.

Dated: July 14th, 2021



Frederick P. Corbit

Frederick P. Corbit
Bankruptcy Judge

KEVIN O'ROURKE
SOUTHWELL & O'ROURKE, P.S.
Attorneys at Law
960 Paulsen Center
W. 421 Riverside Avenue
Spokane, WA 99201
(509) 624-0159

UNITED STATES BANKRUPTCY COURT
IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

In re:

No.: **21-00250-FPC11**

JAMES E. CARPENTER,

Chapter 11

Debtor.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW REGARDING
CONFIRMATION OF DEBTOR'S
CHAPTER 11 SUBCHAPTER V PLAN
OF REORGANIZATION**

THIS MATTER come on for hearing on July 14, 2021 for confirmation of Debtor's Chapter 11 Subchapter V Plan of Reorganization filed on May 24, 2021 (ECF No. 79) (the "Plan"). Southwell & O'Rourke, P.S. appearing for Debtor. The court having reviewed the Debtor's Plan and the Declaration of James E. Carpenter, and having heard the arguments of counsel, makes the following FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Debtor filed this Chapter 11 Subchapter V proceeding on February 25, 2021 (ECF No. 1).

2. Debtor filed its Plan on May 24, 2021 (ECF No. 79). The Plan contains a brief history of the business operations of the Debtor, a liquidation analysis, and projections with respect to the ability of the Debtor to make Plan payments. The Plan provides for the submission of future income to the supervision and control of the

Findings of Fact and Conclusions of Law-1

SOUTHWELL & O'ROURKE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS AT LAW
SUITE 960, PAULSEN CENTER
WEST 421 RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201
TELEPHONE (509) 624-0159

1 trustee as is necessary for the execution of the Plan. As such, the Plan complies with
2 11 U.S.C. §1190.

3 3. Debtor gave proper notice of his Plan and the Hearing on Confirmation
4 of the Plan to creditors and parties in interest as required by FRBP 2002, LBR 2002-1,
5 and LBR 3018-1, as well as other applicable provisions of the bankruptcy code and
6 the Federal Rules of Bankruptcy Procedure by serving the Plan, List of Classifying
7 Claims and Interest, and Ballot. Proof of service of such notice was filed with the court
8 on June 1, 2021 (ECF No. 82).

9 4. The hearing on confirmation after notice to creditors was held on July 14,
10 2021.

11 5. The following classes of claims are impaired under the plan:

12 Class 2: Grant County

13 Classes 3 through 5: Washington Trust Bank

14 Class 6: Zoila Olivares

15 Class 8: The Allowed General Unsecured Claims Against the Debtor

16 Class 9: Ally Bank

17 Class 10: Guardianship Estate of Doris Carpenter

18 6. Debtor properly filed a Ballot Summary on July 6, 2021 (ECF No. 103)
19 (the "Ballot Summary"). The Ballot Summary indicates that all Classes voted in favor
20 of the Plan. There were no Classes that voted against the Plan.

21 7. No ballots other than those identified in the Ballot Summary have been
22 received by Debtor.

23 8. Any payment made or to be made by the Debtor for services or for costs
24 and expenses in or in connection with the case, or in connection with the Plan and
25 incident to the case, has been approved by, or is subject to the approval of, the court

Findings of Fact and Conclusions of Law-2

SOUTHWELL & O'ROURKE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS AT LAW
SUITE 960, PAULSEN CENTER
WEST 421 RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201
TELEPHONE (509) 624-0159

1 as reasonable. Any and all payments for professional services, including authorization
2 required by 11 U.S.C. §327 and 330, shall remain subject to bankruptcy court
3 approval notwithstanding confirmation of the Plan.

4 9. Debtor shall continue the operation of his sole proprietor business
5 Carpenter's Rentals after confirmation of the Plan. The net proceeds and income from
6 Debtor's business operations shall be used by Debtor to pay creditors as provided by
7 the Plan.

8 10. The Debtor's Plan contains a Liquidation Analysis, which in a liquidation
9 scenario, projects that all creditors shall be paid in full. As such, the creditors who are
10 impaired by the plan, and who did not vote for the plan, will receive not less than the
11 amount they would receive in a liquidation, as required by 11 U.S.C. §1129(a)(7).

12 11. No government regulatory commission or agency is required to approve
13 the Plan or terms of the Plan.

14 12. Debtor's Plan satisfies the requirements of 11 U.S.C. §1129(a)(7) in that
15 each holder of a claim or interest has accepted the Plan or will receive or retain under
16 the Plan property of a value, as of the effective date of the Plan, that is not less than
17 the amount that such holder would receive or retain if Debtor was liquidated under
18 Chapter 7 of the Bankruptcy Code on such date.

19 13. No 11 U.S.C. §1111(b) elections have been made by any secured
20 creditor.

21 14. With respect to the class of claims that did not vote for the Plan, the Plan
22 does not discriminate unfairly, and is fair and equitable, with respect to such class of
23 claims as required by 11 U.S.C. §§1129(b)(1) and 1191(b). As stated above, the Plan
24 calls for the Debtor's payment of its disposable income to creditors over a period of 3
25 years. Furthermore, the Debtor has provided a Plan Budget, Monthly Operating

Findings of Fact and Conclusions of Law-3

SOUTHWELL & O'ROURKE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS AT LAW
SUITE 960, PAULSEN CENTER
WEST 421 RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201
TELEPHONE (509) 624-0159

1 Reports and the Declaration of Debtor, which demonstrate the Debtor's ability to make
2 his Plan payments.

3 15. Administrative priority claims described by 11 U.S.C. §503(b) and 11
4 U.S.C. §507(A)(2) are provided for as required by 11 U.S.C. §1129(a)(9).

5 16. The Plan has been accepted in writing by at least one non-insider class
6 of impaired creditors as required by 11 U.S.C. §1129(a)(10). The provisions of
7 Chapter 11, Title 11 of the United States Code have been complied with, and the Plan
8 complies with all provisions of Title 11 of the United States Code as well as other
9 applicable law.

10 17. Confirmation of the Plan is not likely to be followed by liquidation, or the
11 need for further financial reorganization of Debtor.

12 18. This was a voluntary Chapter 11 filing by the Debtor. As such, no fees
13 are due to any involuntary creditors.

14 19. The Debtor does not owe child support or domestic support obligations.

15 20. The Debtor has no unpaid wage claims nor claims for commissions.

16 21. The Debtor does not owe claims for non-payment to any employee
17 benefit plan.

18 22. The Debtor does not operate a grain storage facility.

19 23. The Debtor does not owe a debt to fishermen.

20 24. There are no claims made by any creditors for pre-petition deposits for
21 purchase or lease of products for any creditor's personal family or household use.

22 25. The Debtor does not owe the bankruptcy court for any fees.

23 26. Debtor is not paying retiree benefits; therefore, no retiree benefits will be
24 affected by the Plan.

25 Findings of Fact and Conclusions of Law-4

SOUTHWELL & O'ROURKE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS AT LAW
SUITE 960, PAULSEN CENTER
WEST 421 RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201
TELEPHONE (509) 624-0159

1 27. Debtor's Plan should be confirmed. The provisions of Chapter 11 have
2 been complied with, and the Plan has been proposed in good faith and not by any
3 means forbidden by law.

4 28. The requirements for confirmation of the Plan imposed by the
5 Bankruptcy Code, Federal Rules of Bankruptcy Procedure and other applicable law,
6 including the requirements of 11 U.S.C. § 1129, have been met.

7 29. The effective date of the Plan will be the first business day following the
8 date on which the confirmation becomes a final non-appealable order. Debtor is
9 authorized and directed to begin consummation of the Plan on the effective date.

10 30. The Plan is confirmed with the following changes:

- 11 a. Southwell & O'Rourke is authorized to serve as disbursing agent for
12 the net proceeds of any court approved real and/or personal property
13 sales.
14 b. Pursuant to Article 10, any written notice of default shall also be
15 served upon Virginia Andrews Burdette.

16
17 /// END OF ORDER //

18 Presented by:

19 SOUTHWELL & O'ROURKE, P.S.

20 BY: /s/ Kevin O'Rourke
21 KEVIN O'ROURKE, WSBA #28912
22 Attorney for Debtor
23
24
25

Findings of Fact and Conclusions of Law-5

SOUTHWELL & O'ROURKE, P.S.
A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS AT LAW
SUITE 960, PAULSEN CENTER
WEST 421 RIVERSIDE AVENUE
SPOKANE, WASHINGTON 99201
TELEPHONE (509) 624-0159